

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CIPLA LTD.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 22-300 (MN)
)	
BOEHRINGER INGELHEIM)	
PHARMACEUTICALS INC.,)	
BOEHRINGER INGELHEIM)	
INTERNATIONAL GMBH AND)	
BOEHRINGER INGELHEIM)	
PHARMA GMBH & CO. KG,)	
)	
Defendants.)	

CONSENT DECREE AND FINAL JUDGMENT

WHEREAS Civil Action No. 1:22-00300-MN has been brought by Cipla Ltd. (“Cipla”) against Boehringer Ingelheim Pharmaceuticals Inc., Boehringer Ingelheim International GmbH, and Boehringer Ingelheim Pharma GmbH & Co. KG (collectively, “Boehringer,” and together with Cipla, the “Parties”) seeking a declaration that its generic nintedanib esylate 100 mg and 150 mg capsules (“Cipla’s ANDA Products”), which are the subject of ANDA No. 212609 (“Cipla’s ANDA”), do not infringe any claim of U.S. Patent No. 9,907,756 (“the ’756 patent”) and U.S. Patent No. 10,105,323 (“the ’323 patent”);

WHEREAS Cipla and Boehringer have resolved this litigation for good cause and valuable consideration recognized by Cipla and Boehringer;

WHEREAS Cipla and Boehringer respectfully request that the Court terminate the pending litigation as between Cipla and Boehringer by the entry of this Judgment and Order; and

WHEREAS Cipla and Boehringer now consent to this Judgment and Order.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. For the purpose of this action only, this Court has jurisdiction over Cipla and Boehringer and the subject matter of this action.

2. The Parties agree that Cipla's manufacture, use, sale, offer for sale, and/or importation of the Cipla ANDA Products in the United States does not and will not constitute infringement, either direct or indirect, literally, or pursuant to the doctrine of equivalents, of any claim of the '756 patent and '323 patent.

3. The Parties agree that a Final Judgment on the merits is warranted based on Cipla's non-infringement of the '756 patent and '323 patent.

4. Based on a review of the record, and the Parties' representations, the Court finds that Cipla, Cipla's ANDA, and Cipla's ANDA Products do not infringe any claim of the '756 and '323 patents directly or indirectly, literally, or pursuant to the doctrine of equivalents.

5. The Court grants judgment that Cipla's manufacture, use, offer for sale, sale, marketing and/or importation of the Cipla ANDA Products does not and will not infringe any claim of the '756 patent or '323 patent. Final Judgment of non-infringement is therefore entered in favor of Plaintiff as to Count I (Non-infringement of the '756 patent) and Count II (Non-infringement of the '323 patent) of the Complaint (D.I. 2).

6. As a result of this Final Judgment of non-infringement being entered with respect to the '756 patent and '323 patent, there remains no controversy between the parties with respect to the '756 patent or '323 patent.

7. Cipla may rely on this Final Judgment of non-infringement of the '756 patent and '323 patent with respect to ANDA No. 212609 to the extent permitted by law.

8. Neither this Judgment and Order nor the entry of this Judgment and Order may be asserted by Cipla or any other entity against Boehringer or any of its affiliates, and shall have no preclusive effect whatsoever, in any cause of action, litigation or proceeding with respect to any product other than the Cipla ANDA Products in the United States or with respect to any patents other than the '756 patent and '323 patent.

9. The Complaint and all remaining claims, counterclaims, or affirmative defenses in this action are dismissed without costs, disbursements, or attorney fees to any party. Cipla and Boehringer shall bear their own costs and attorney fees in connection with this action.

10. This Court shall retain jurisdiction of this action and over Cipla and Boehringer for purposes of enforcement of the provisions of this Judgment and Order.

K&L GATES LLP

/s/ Matthew B. Goeller

Steven L. Caponi (#3484)
Matthew B. Goeller (#6283)
Megan E. O'Connor (#6569)
600 North King Street, Suite 901
Wilmington, DE 19801
(302) 416-7000
steven.caponi@klgates.com
matthew.goeller@klgates.com
megan.oconnor@klgates.com

Attorneys for Plaintiff Cipla Ltd.

July 14, 2022

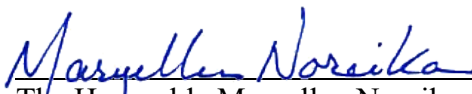
MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jeremy A. Tigan

Jack B. Blumenfeld (#1014)
Jeremy A. Tigan (#5239)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
jtigan@morrisnichols.com

*Attorneys for Defendants
Boehringer Ingelheim Pharmaceuticals Inc.,
Boehringer Ingelheim International GmbH and
Boehringer Ingelheim Pharma GmbH & Co. KG*

IT IS SO ORDERED this 18th day of July 2022.



The Honorable Maryellen Noreika
United States District Judge